

U.S. Appln. No. 10/582,551
Confirmation No. 4738
Docket No. 0074-543464

REMARKS

No new matter has been introduced into this application by reason of the amendments presented hereinabove. It is respectfully requested that the foregoing amendments to the Claims be entered prior to the next examination of this application.

35 USC 102(e): Claims 1-3, 5-7, 9, and 11

The Examiner rejected Claims 1-3, 5-7, 9, and 11 under 35 USC 102(e) as being anticipated by US Patent Application Publication No. 2006/0270525 (Colling). This rejection is clearly erroneous because Colling is not properly citable against the present application under 35 USC 102(e).

Colling claims the benefit of US Provisional Application No. 61/684,106, filed May 24, 2005. Therefore, the earliest effective U.S. filing date to which Colling may be entitled is May 24, 2005. The present application is the US national stage of International Application No. PCT/NZ2004/000318, which has an international filing date of December 9, 2004. Colling was not filed in the U.S. before the Applicant's international filing date. Consequently, Colling is not available as a reference in a rejection of the claims of the present application under 35 USC 102(e). Accordingly, the rejection is improper and should be withdrawn.

35 USC 103(a): Claim 8

The Examiner rejected Claim 8 under 35 USC 103(a) as being unpatentable over Colling in combination with US Patent No. 6,053,845 (Publicover et al.). This rejection is also clearly erroneous to the extent that it relies on Colling, because Colling is not available as a reference in a rejection of the claims of the present application for the same reasons set forth above. Therefore, the rejection of Claim 8 under 35 USC 103(a) is improper and should be withdrawn.

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35 USC 103(a): Claims 4, 10, and 12

The Examiner rejected Claims 4, 10, and 12 under 35 USC 103(a) as being unpatentable over Colling in combination with US Patent No. 6,319,174 (Alexander). This rejection is also clearly erroneous to the extent that it relies on Colling, because Colling is not available as a reference in a rejection of the claims of the present application for the same reasons set forth above. Therefore, the rejection of Claims 4, 10, and 12 under 35 USC 103(a) is improper and should be withdrawn.

CONCLUSION

In view of the foregoing remarks, it is believed that claims of this application are in condition for allowance. The Applicant respectfully requests that the Examiner reconsider the rejection in the light of the foregoing remarks.

Respectfully submitted,

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